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January 4, 2005

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JAN 4 2005

PUBLIC SERVICE  
COMMISSION

**via Hand Delivery**

Ms. Beth O'Donnell  
Executive Director  
Kentucky Public Service Commission  
211 Sower Blvd.  
P. O. Box 615  
Frankfort, KY 40601

Case 2005-00017

**Re: *Bluegrass Wireless LLC's Petition for Designation as an Eligible  
Telecommunications Carrier in the Commonwealth of Kentucky***

Dear Ms. O'Donnell:

Enclosed for filing with the Public Service Commission of the Commonwealth of Kentucky (the "Commission") is one original and ten (10) copies of Bluegrass Wireless LLC's Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky in the above-styled case.

In addition, enclosed is a copy for file-stamping. Please return this copy to us in the self-addressed, postage prepaid envelope furnished herewith. Thank you, and if you have any questions with regard to this matter, please call me.

Very truly yours,

DINSMORE & SHOHL LLP



John E. Selent

JES/HCW/rk  
Enclosure

cc: Ron Smith (with enclosure)  
96953v1  
31160/2

BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION

RECEIVED

JAN 4 2005

*In the matter of:*

BLUEGRASS WIRELESS LLC'S PETITION )  
FOR DESIGNATION AS AN ELIGIBLE )  
TELECOMMUNICATIONS CARRIER )  
IN THE COMMONWEALTH OF )  
KENTUCKY )

PUBLIC SERVICE  
COMMISSION  
Case No. 2005-00017

**PETITION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS  
CARRIER IN THE COMMONWEALTH OF KENTUCKY**

1. Bluegrass Wireless LLC ("Bluegrass Wireless"), by counsel, and pursuant to section 214 of the Telecommunications Act of 1996 (the "Act"), hereby submits its Petition for Designation ("Petition") as an eligible telecommunications carrier ("ETC") in the Commonwealth of Kentucky.

2. Bluegrass Wireless is a cellular telephone carrier eligible to provide digital wireless telecommunications services in forty-four counties throughout Kentucky.<sup>1</sup> Bluegrass Wireless seeks designation as an ETC for both study areas of rural telephone companies as defined in 47 U.S.C. § 153(37), as well as wire centers of non-rural incumbent local exchange carriers ("ILECs").<sup>2</sup> As demonstrated herein, and certified in Exhibit C to this Petition, Bluegrass Wireless satisfies all of the requirements for designation as an ETC in each of the Designated Areas and respectfully requests that the Kentucky Public Service Commission (the "Commission") promptly grant its Petition.

**I. BLUEGRASS WIRELESS MEETS ALL THE REQUIREMENTS FOR  
DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER TO  
SERVE THE DESIGNATED AREAS IN THE COMMONWEALTH OF  
KENTUCKY.**

<sup>1</sup> The forty-four counties served by Bluegrass Wireless are listed in Exhibit A.

<sup>2</sup> A list of the rural telephone company study areas and non-rural ILEC wire centers ("Designated Areas") for which Bluegrass Wireless seeks designation in this Petition is attached as Exhibit B.

3. Pursuant to 47 U.S.C. § 214(e)(2), the Commission, "consistent with the public interest, convenience and necessity . . . may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as [the] requesting carrier meets the requirements of paragraph (1)" of Section 214(e). Wireless telecommunications carriers, such as Bluegrass Wireless, are eligible to be designated as ETCs. *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8858-59 (1997). Bluegrass Wireless satisfies the requirements of paragraph (1) of Section 214(e); therefore, the Commission should designate Bluegrass Wireless as an ETC for the Designated Areas.

"A common carrier designated as an eligible telecommunications carrier . . . shall be eligible to receive universal service support in accordance with section 254 of this title and shall, throughout the service area for which the designation is received—

(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c) of this title, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefore using media of general distribution.

47 U.S.C. § 214(e)(1).

4. Pursuant to this statute, so long as a telecommunications carrier offers the services supported by the Universal Service Fund using its own facilities or a combination of its own facilities and those of another telecommunications carrier, and advertises the availability of such services, "a State commission shall . . . designate [the] common carrier . . . as an eligible telecommunications carrier for a service area designated by the State commission." 47 U.S.C. § 214(e)(2). The services supported by

the Universal Service Fund are: 1) voice grade access to the public switched network, 2) local usage, 3) dual tone multi-frequency signaling or its functional equivalent, 4) single-party service or its functional equivalent, 5) access to emergency services, 6) access to operator services, 7) access to interexchange service, 8) access to directory assistance, and 9) toll limitation for qualifying low-income consumers. *See* 47 C.F.R. § 54.101(a). As demonstrated below, and as set forth in the declaration of Ron Smith, authorized representative of Bluegrass Wireless, Bluegrass Wireless will offer all of the services supported by the Universal Service Fund using a combination of its own facilities and those of other telecommunications carriers, and advertise the availability of those services. (*See* Exhibit C, Declaration of Ron Smith). Accordingly, the Commission should grant Bluegrass Wireless's petition.

A. **Bluegrass Wireless Will Provide Service Using a Combination of its Own and Others' Facilities.**

5. Bluegrass Wireless is a full service wireless carrier that will offer all of the services supported by the Universal Service Fund throughout its licensed service area utilizing a combination of its own facilities and facilities leased from other telecommunications carriers.

B. **Bluegrass Wireless Will Offer All Required Services and Functionalities.**

6. Upon designation as an ETC in the Designated Areas, Bluegrass Wireless will offer all of the services and functionalities required by 47 C.F.R. § 54.101(a) as specified below.

(i) **Voice grade access to the public switched telephone network.**

7. Voice grade access to the public switched telephone network (“PSTN”) is defined as "a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to

receive voice communications, including receiving a signal indicating there is an incoming call. For the purposes of this part, bandwidth for voice grade access should be, at a minimum, 300 to 3,000 Hertz." 47 C.F.R. § 54.101(a)(1). Bluegrass Wireless services will enable customers to transmit voice communications, including placing and receiving calls. Bluegrass Wireless will offer this service at a bandwidth between 300 and 3,000 Hertz. Therefore, Bluegrass Wireless will offer voice grade access to the public switched network within the meaning of 47 C.F.R. § 54.101(a)(1).

(ii) **Local usage.**

8. Local usage is defined as "an amount of minutes of use of exchange service, prescribed by the Commission, provided free of charge to end users." 47 C.F.R. § 54.101(a)(2). Bluegrass Wireless will have a variety of rate plans which provide local usage for its subscribers. Moreover, as a designated ETC, Bluegrass Wireless will comply with any and all minimum local usage requirements required by applicable law.

(iii) **Dual tone multi-frequency ("DTMF") signaling or its functional equivalent.**

9. Section (a)(3) of 47 C.F.R. 54.101 provides for supported services to include "dual tone multi-frequency signaling or its functional equivalent." Dual tone multi-frequency ("DTMF") is defined as "a method of signaling that facilitates the transportation of signaling through the network, shortening call set-up time." *Id.* Bluegrass Wireless will provide DTMF signaling to facilitate the transportation of signaling throughout its network. Bluegrass Wireless will use out-of-band digital signaling and in-band multi-frequency signaling that is functionally equivalent to DTMF signaling.

**(iv) Single-party service or its functional equivalent.**

10. Single-party service is defined as "telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or, in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission." 47 C.F.R. § 54.101(a)(4). Bluegrass Wireless will provide customers with single-party access for the duration of every phone call. Bluegrass Wireless will not provide "multi-party" or "party line" services. Accordingly, Bluegrass Wireless will provide single-party service within the meaning of the FCC's regulations.

**(v) Access to 911 and E911 emergency service.**

11. "Access to emergency services includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations." 47 C.F.R. § 54.101(5). Bluegrass Wireless will provide universal access to the 911 system for its customers, and will implement enhanced 911 ("E911") services consistent with the FCC's Rules and Orders and local public service access point ("PSAP") requests.

**(vi) Access to operator services.**

12. Access to operator services is defined as "access to any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call." 47 C.F.R. § 54.101(6). Bluegrass Wireless will offer all of its customers access to operator services in accordance with FCC regulations.

**(vii) Access to interexchange service ("IXC").**

13. Access to interexchange service is defined as "the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these

network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network." 47 C.F.R. § 54.101(7). Bluegrass Wireless customers will be able to use the Bluegrass Wireless network for interexchange access to place long distance phone calls. Access will be provided through interconnection agreements with several interexchange carriers.

**(viii) Access to directory assistance.**

14. Access to directory assistance is defined as "access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings." 47 C.F.R. § 54.101(8). All Bluegrass Wireless customers will be able to dial "411" or "555-1212" to access directory assistance.

**(ix) Toll limitation for qualified low-income consumers.**

15. Toll limitation for qualifying low-income consumers is defined as "toll blocking or toll control for eligible telecommunications carriers that are incapable of providing both services. For eligible telecommunications carriers that are capable of providing both services, toll limitation denotes both toll blocking and toll control." 47 C.F.R. § 54.400(d). Toll blocking "is a service provided by carriers that lets consumers elect not to allow the completion of outgoing toll calls from their telecommunications channel." 47 C.F.R. § 54.400(b). "Toll control is a service provided by carriers that allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle." 47 C.F.R. § 54.400(c). Upon designation as an ETC, Bluegrass Wireless will offer toll limitation services to consumers who meet the qualifications for Lifeline as specified in 47 C.F.R. § 54.409.

**C. Bluegrass Wireless Will Advertise the Availability of Supported Services.**

16. Bluegrass Wireless will advertise the availability of the supported services detailed above, as well as the charges therefore, using media of general distribution in accordance with 47

C.F.R. § 54.201(d)(2). The methods of advertising utilized may include newspapers, magazines, radio, or television as well as other methods that constitute media of general distribution in the Designated Areas of Kentucky.

**II. BLUEGRASS WIRELESS REQUESTS DESIGNATION THROUGHOUT EACH OF THE DESIGNATED AREAS WITHIN ITS SERVICE COVERAGE.**

17. Bluegrass Wireless is not a rural telephone company as defined in 47 U.S.C. § 153(37). Accordingly, Bluegrass Wireless is required to describe the geographic areas within which it requests designation as an ETC. Bluegrass Wireless requests designation as an ETC throughout each of the Designated Areas within the Commonwealth of Kentucky, as set forth in Exhibit B. As noted above, these Designated Areas consist of study areas of rural telephone companies that Bluegrass Wireless or a related cellular telephone carrier serves in their entirety (with one exception) as well as wire centers of non-rural ILECs.<sup>3</sup> A map of Bluegrass Wireless's service area, within which Bluegrass Wireless or a related cellular telephone carrier provides service to the entirety of the Designated Areas, with the one exception noted above, is attached as Exhibit D.<sup>4</sup>

**III. IN ACCORDANCE WITH 47 U.S.C. § 214(e)(2), BLUEGRASS WIRELESS IS ENTITLED TO BE DESIGNATED AS AN ETC IN NON-RURAL WIRE CENTERS.**

18. Pursuant to 47 U.S.C. §214(e) and 47 C.F.R. § 54.201(c), Bluegrass Wireless is entitled to be granted ETC status by the Commission with respect to the non-rural wire centers identified in Exhibit B. "A State commission *shall* upon its own motion or upon request

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<sup>3</sup> The one exception is the rural study area for Kentucky Alltel, Inc. - London. Bluegrass Wireless seeks ETC designation for the following Kentucky Alltel, Inc. - London wire centers: BBVLKYXA, BESPKEYXA, BWVLKYXA, CKSNKYXA, CYVLKYXA, EBNKKYXA, EBRNKYAC, FBSHKYXA, FLLCKYXA, LONDKYXA, MMCVKYXA, MNCHKYXA, ONEDKYXA, PRCYKYXA, SCHLKYXA, SMGVKYXA, SOVLKYXA, WHLLKYXA.

<sup>4</sup> The map of Bluegrass Wireless's service area will be provided under separate cover.

designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission." 47 U.S.C. § 214(e)(2). Given Bluegrass Wireless satisfies the requirements of paragraph (1) of 47 U.S.C. § 214(e) as described above, the Commission should grant Bluegrass Wireless's petition with regard to the non-rural wire centers identified in Exhibit B.

#### **IV. DESIGNATION OF BLUEGRASS WIRELESS AS AN ETC FOR THE DESIGNATED AREAS SERVED BY A RURAL TELEPHONE COMPANY IN KENTUCKY WOULD SERVE THE PUBLIC INTEREST.**

19. With regard to areas served by rural telephone companies as defined in 47 U.S.C. § 153(37), the Commission must determine not only that Bluegrass Wireless will satisfy the requirements set forth above, but that Bluegrass Wireless's designation as an ETC in those areas would serve the public interest.<sup>5</sup> As demonstrated below, Bluegrass Wireless's designation as an ETC would serve the public interest in all of the Designated Areas.

20. The FCC has determined that "[d]esignation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies."<sup>6</sup> This is particularly applicable in the Designated Areas served by rural telephone companies within the Commonwealth of Kentucky, many of which are not presently served by competitive wireline carriers that could provide an alternative to the ILEC. Designation of Bluegrass Wireless as an ETC would promote competition and facilitate the provision of advanced communications services to residents of rural Kentucky. Consumers would reap the benefits of wireless service and, where requested by the public service access point, global positioning satellite location assistance for customers calling 911.

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<sup>5</sup> See 47 U.S.C. § 214(e)(2).

<sup>6</sup> See Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming, Memorandum Opinion and Order, CC Docket No. 94-45, 16 FCC Rcd 48, 55 (2000).

21. Designation of Bluegrass Wireless as an ETC will also provide an incentive to the ILECs in the Designated Areas to improve existing networks to remain competitive, resulting in improved services to consumers. Moreover, Bluegrass Wireless's ETC status will benefit consumers by ensuring that quality services are available at just, reasonable, and affordable rates in accordance with the Act.<sup>7</sup>

22. Designation of Bluegrass Wireless as an ETC will also serve the public interest in all of the Designated Areas because Bluegrass Wireless will provide all of the supported services required by applicable law, participate in the LifeLine and Link Up programs as required by the FCC, and otherwise comply with all FCC regulations governing universal service programs. Allowing Bluegrass Wireless access to universal service subsidies will allow Bluegrass Wireless to bring competition to underserved, high-cost areas of the Commonwealth of Kentucky, and to continue to enhance and expand its network infrastructure to better serve consumers in those areas. Accordingly, designation of Bluegrass Wireless as an ETC will serve the public interest.

#### **V. ANTI-DRUG ABUSE CERTIFICATION.**

23. No party to this Petition is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.13.

#### **VI. CONCLUSION.**

24. For the foregoing reasons, and in accordance with the Act and the FCC's regulations, Bluegrass Wireless respectfully requests that the Commission promptly grant its petition for designation as an eligible telecommunications carrier.

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<sup>7</sup> See 47 U.S.C. § 254(b)(1).

Respectfully submitted,



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**EXHIBIT A**

**Bluegrass Wireless LLC Service Area by County**

**Adair  
Allen  
Barren  
Breckinridge  
Bullitt  
Butler  
Caldwell  
Casey  
Christian  
Clay  
Clinton  
Cumberland  
Daviess  
Edmonson  
Grayson  
Green  
Hancock  
Hardin  
Hart  
Hopkins  
Knox  
Larue  
Laurel  
Logan  
McCreary  
McLean  
Marion  
Meade  
Metcalfe  
Monroe  
Muhlenberg  
Nelson  
Ohio  
Pulaski  
Russell  
Simpson  
Spencer  
Taylor  
Todd  
Trigg  
Warren**

**Washington**  
**Wayne**  
**Whitley**



## EXHIBIT B

### Designated Areas of Kentucky for which Bluegrass Wireless LLC Seeks Designation as an Eligible Telecommunications Carrier

#### Rural Telephone Company Study Areas

260402	Alltel Kentucky, Inc.
260398	Brandenburg Telephone Company, Inc.
260401	Duo County Telephone Cooperative Corporation, Inc.
264002	Highland Telephone Cooperative, Inc.
269691	Kentucky Alltel, Inc. - London
260412	Lewisport Telephone Company, Inc.
260413	Logan Telephone Cooperative, Inc.
264001	North Central Telephone Cooperative, Inc.
260418	South Central Rural Telephone Cooperative Corporation, Inc.

#### Non-Rural ILEC Wire Centers

#### **265182      BellSouth Telecommunications, Inc. d/b/a South Central Bell Telephone**

South Central Bell	BLFSKYMA
South Central Bell	BLSPKYMA
South Central Bell	BRMNKYMA
South Central Bell	BRTWKYES
South Central Bell	BVDMKYMA
South Central Bell	BWLGKYMA
South Central Bell	BWLGKYRV
South Central Bell	CADZKYMA
South Central Bell	CBRNKYMA
South Central Bell	CHPLKYMA
South Central Bell	CLHNKYMA
South Central Bell	CLPTKYMA
South Central Bell	CNCYKYMA
South Central Bell	CNTNKYMA
South Central Bell	CNTWKYMA
South Central Bell	COTNKYMA
South Central Bell	DRBOKYES
South Central Bell	DWSPKYMA
South Central Bell	EKTNKYMA
South Central Bell	ENSRKYMA
South Central Bell	ERTNKYMA
South Central Bell	FDVLKYMA
South Central Bell	FKLNKYMA

South Central Bell	FRDNKYMA
South Central Bell	GNVLKYMA
South Central Bell	GRACKYMA
South Central Bell	GTHRKYMA
South Central Bell	HABTKYMA
South Central Bell	HANSKYMA
South Central Bell	HPVLKYMA
South Central Bell	HRBGKYES
South Central Bell	HRFRKYMA
South Central Bell	HWVLKYMA
South Central Bell	ISLDKYMA
South Central Bell	JLLCTNMA
South Central Bell	LBJTKYMA
South Central Bell	LFYTKYMA
South Central Bell	LVMRKYMA
South Central Bell	MACEKYMA
South Central Bell	MCDNKYMA
South Central Bell	MDVLKYMA
South Central Bell	MGTWKYMA
South Central Bell	MRGPKYMA
South Central Bell	MTEDKYMA
South Central Bell	NEBOKYMA
South Central Bell	NRVLKYMA
South Central Bell	NWHNKYMA
South Central Bell	OKGVKYES
South Central Bell	OWBOKYMA
South Central Bell	PMBRKYMA
South Central Bell	PLRGKYMA
South Central Bell	PNTHKYMA
South Central Bell	PRTNKYES
South Central Bell	RLVLKYMA
South Central Bell	RSTRKYES
South Central Bell	SCRMKYMA
South Central Bell	SHGVKYMA
South Central Bell	SLGHKYMA
South Central Bell	SPFDKYMA
South Central Bell	SRGHKYMA
South Central Bell	STCHKYMA
South Central Bell	STNLKYMA
South Central Bell	TRE NKYMA
South Central Bell	TYVLKYMA
South Central Bell	UTICKYMA
South Central Bell	WDDYKYMA
South Central Bell	WHVLKYMA
South Central Bell	WLBGKYMA

South Central Bell    WLVLKYMA  
South Central Bell    WSPNKYMA

**269690            Kentucky Alltel, Inc. - Lexington**

Kentucky Alltel        ALBYKYXA  
Kentucky Alltel        BRSDKYXA  
Kentucky Alltel        BRVLKYXA  
Kentucky Alltel        BSVLKYXA  
Kentucky Alltel        CECLKYXA  
Kentucky Alltel        CLMAKYXA  
Kentucky Alltel        CMVLKYXA  
Kentucky Alltel        EZTWKYXA  
Kentucky Alltel        GLSGKYXA  
Kentucky Alltel        GNBGKYXB  
Kentucky Alltel        HGVLKYXA  
Kentucky Alltel        HTVLKYXE  
Kentucky Alltel        LBNNKYXA  
Kentucky Alltel        LBRTKYXA  
Kentucky Alltel        LRRTKYXA  
Kentucky Alltel        LTFDKYXA  
Kentucky Alltel        MNTIKYXA  
Kentucky Alltel        NANCKYXA  
Kentucky Alltel        SCVLKYXA  
Kentucky Alltel        SHDNKYXA  
Kentucky Alltel        SMTRKYXA  
Kentucky Alltel        TMVLKYXA



**BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION**

*In the matter of:*

<b>BLUEGRASS WIRELESS LLC'S PETITION</b>	)	<b>Case No.</b> _____
<b>FOR DESIGNATION AS AN ELIGIBLE</b>	)	
<b>TELECOMMUNICATIONS CARRIER</b>	)	
<b>IN THE COMMONWEALTH OF</b>	)	
<b><u>KENTUCKY</u></b>	)	

**DECLARATION OF RON SMITH**

I, the undersigned Ron Smith, do hereby declare under penalty of perjury as follows.

1. I am the authorized representative of Bluegrass Wireless LLC ("Bluegrass Wireless").

2. Bluegrass Wireless is a limited liability company organized under the Kentucky Limited Liability Company Act.

3. I declare and certify, as described in Bluegrass Wireless's attached petition for eligible telecommunications carrier status, that Bluegrass Wireless will offer all of the services supported by the Universal Service Fund pursuant to 27 U.S.C. § 254(c)(3); that Bluegrass Wireless will offer the supported services using a combination of its own facilities and those of other carriers; and that Bluegrass Wireless will advertise the availability of supported services, and the charges therefore, using media of general distribution.

4. I further declare that the foregoing, as well as the content of the attached petition for eligible telecommunications carrier status is, to the best of my knowledge and belief, true and correct.

5. I further declare that to the best of my knowledge and belief, Bluegrass Wireless, including its officers, directors and shareholders, is not subject to denial of federal benefits

pursuant to 21 U.S.C. § 862.

A handwritten signature in black ink that reads "Ron Smith by [initials]". The signature is written in a cursive style and is positioned above a horizontal line.

Ron Smith  
Authorized Representative  
Bluegrass Wireless LLC

Dated: January 4, 2005.